IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO.62 OF 2006

Supriya Rahul Pansare .. Applicant

versus

Rahul Balasaheb Pansare .. Respondent

...

Mr.Ashutosh Gole for the applicant.

Ms.Deepali Bhalekar i/b Uday P. Warunjikar for the respondent.

CORAM : D.G. KARNIK, J

DATED : 7th December 2006

P.C.:

1. Heard counsel for the parties. By consent, heard finally at the stage of admission.

2. This petition is filed by the wife for transfer

of the Hindu Marriage Petition no.60 of 2005 filed by the respondent from the Court of Civil Judge, Sr. Division, Ahmednagar to the Family Court at Pune.

3. In this petition, petitioner has stated that she was driven out of the house and had therefore no alternative but to reside with her parents at Pune. She has also filed a petition for restitution of conjugal rights which is pending in the Family Court at Pune. In the circumstances, it would be appropriate to transfer the respondent's petition to the Family Court at Pune so that both the petitions can be heard together. Petitioner has further stated that it would not be possible for her to bear the expenses of travel to go to Ahmednagar for defending the proceedings especially so as the respondent is not paying any maintainance to her. No affidavit in reply has been filed by the respondent though notice was served on him more than four months ago. It may be noted that the respondent himself had filed petition bearing Misc. Application no. 25 of 2006 in this Court for transfer of the wife's petition for restitution of conjugal rights from the Court at Pune to the Court at Ahmednagar on the ground that both the petitions can be heard together. That transfer petition was rejected by this court.

4. Learned counsel for the petitioner referred to and relied upon several decisions of the Supreme Court viz: Madhu Saxena versus Pankaj Saxena reported in (2005) (13) SCC 158, Neelam Kumari Vs. Navinder Singh reported in 2005 (12) SCC 363 and Sheela @ Anupama Mahesh Khole versus Mahesh Khole reported in 2004 (13) SCC 417 and Roopali Saxena vs. Amit Saxena reported in 2004 (13) SCC 495. In all these petitions, the Supreme court has considered the convenience of the wife and transferred the matrimonial proceedings at the place of residence of the wife. In the present case, respondent has not paid any maintenance to the petitioner. It would also be appropriate to transfer the said proceedings to the place of residence of the petitioner.

5. For these reasons, petition is allowed in terms of prayer clause (b).

D.G. KARNIK, J